

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STEVE HESSE and ADAM BUXBAUM, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

GODIVA CHOCOLATIER, INC., and DOES 1
through 50,

Defendants.

No. 1:19-cv-00972-LAP

DECLARATION OF AUBRY WAND

I, Aubry Wand, declare as follows:

1. I am an attorney at law, licensed to practice in the state of California. I am admitted *pro hac vice* in the above-captioned action.
2. My firm and Faruqi & Faruqi LLP serve as co-counsel of record for Plaintiffs.
3. I submit this declaration in support of a letter that Plaintiffs are filing in response to letters submitted by Objectors Eli Lehrer and Shiyang Huang regarding the proposed *cy pres* recipients.
4. Attached hereto as **Exhibit A** is a true and correct copy of an email that I, and other counsel, received from Shiyang Huang on April 12, 2022.
5. Attached hereto as **Exhibit B** is a true and correct copy of an email thread between counsel for the Parties and the Objectors Eli Lehrer and Shiyang Huang, from April 11, 2022.
6. I make this declaration on the basis of personal knowledge. If called as a witness, I could and would readily and competently testify to all matters stated within.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 12, 2022.



Aubry Wand

EXHIBIT A

re No. 19-cv-972, Hesse v. Godiva Chocolatiers, Inc.

john doe <defectivesettlement@gmail.com>

Tue 4/12/2022 6:26 AM

To: john doe <defectivesettlement@gmail.com>

Cc: Timothy J. Peter <tpeter@faruqilaw.com>; Biderman, David (Perkins Coie) <DBiderman@perkinscoie.com>; Benjamin Heikali <bheikali@faruqilaw.com>; Anna St. John <anna.stjohn@hlli.org>; Aubry Wand <awand@wandlawfirm.com>; Akinaka, Carrie (SEA) <CAkinaka@perkinscoie.com>

Counsel,

Let me know if Settling Parties and Objector Lehrer are open to stipulating some acceptable cy pres recipients. I'm not into wasting my time reviewing 10 more unqualified recipients.

I've seen others proposing leftovers sent to State AGs. And, no, they don't have to be exact ones supporting my position in this case.

Open to all other non-embarrassing ideas.

Thanks,
Shiyang Huang

EXHIBIT B

Re: FW: Activity in Case 1:19-cv-00972-LAP Hesse v. Godiva Chocolatier, Inc. et al Letter

john doe <defectivesettlement@gmail.com>

Mon 4/11/2022 8:00 PM

To: Benjamin Heikali <bheikali@faruqilaw.com>

Cc: Anna St. John <anna.stjohn@hlli.org>; Timothy J. Peter <tpeter@faruqilaw.com>; Aubry Wand <awand@wandlawfirm.com>; Biderman, David (SFO) <DBiderman@perkinscoie.com>; Akinaka, Carrie (SEA) <CAkinaka@perkinscoie.com>; Hopkins, Dennis C. (NYC) <DHopkins@perkinscoie.com>

[Microsoft Word - 2019 08 29 Declaration in Supp. of Attorneys' Fees FINAL \(1\) \(cvsdhasettlement.com\)](#)

what makes CSPI any different from a class counsel here? Let's see

On Mon, Apr 11, 2022 at 9:42 PM john doe <defectivesettlement@gmail.com> wrote:

I agree with Ben that CSPI doesn't seem to be married to class counsel in that case. Escheat to the Treasury (or similar State AGs) would be equally counterintuitive - while class members pay class counsel a fee for making escheats to the Treasury?

But all of that cannot make *cy pres* to CSPI any less ridiculous: it's almost like helping fund another class counsel like *Hyland v. Navient* case?

I suspect that the only argument for donating to CSPI is it's one of few class counsel having a cool astroturfing name (well, how about Center for Class Action Fairness? sounds as good as CSPI, doesn't it)

On Mon, Apr 11, 2022 at 6:38 PM Benjamin Heikali <bheikali@faruqilaw.com> wrote:

Anna, that is simply a docket sheet that reflects all counsel. As you'll see in the attached, we actually went against CSPI in a co-lead counsel leadership battle. We did not serve as co-counsel with CSPI, they did not litigate the case with us, and we have no conflict or relation with them.

-Ben

From: Anna St. John <anna.stjohn@hlli.org>

Sent: Monday, April 11, 2022 4:16 PM

To: Benjamin Heikali <bheikali@faruqilaw.com>

Cc: Timothy J. Peter <tpeter@faruqilaw.com>; Aubry Wand <awand@wandlawfirm.com>; john doe <defectivesettlement@gmail.com>; Biderman, David (SFO) <DBiderman@perkinscoie.com>; Akinaka, Carrie (SEA) <CAkinaka@perkinscoie.com>; Hopkins, Dennis C. (NYC) <DHopkins@perkinscoie.com>

Subject: Re: FW: Activity in Case 1:19-cv-00972-LAP Hesse v. Godiva Chocolatier, Inc. et al Letter

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Ben:

The attached docket report shows that plaintiff Michael Bates was represented by both Faruqi & Faruqi and CSPI in the case. If you have information to the contrary, please let me know.

Thanks,

Anna

Anna St. John

Hamilton Lincoln Law Institute

1629 K St. NW Suite 300

Washington, DC 20006

anna.stjohn@hlli.org

(917) 327-2392

On Mon, Apr 11, 2022 at 5:33 PM Benjamin Heikali <bheikali@faruqilaw.com> wrote:

Anna:

In your below letter addressed to the Court today, you state that "CSPI and Faruqi served as co-counsel in *Astiana v. Kashi Co.*, No. 3:11-cv-01967 (S.D. Cal.)." Can you please point us to the part of the docket or record, or other factual basis, which supports that statement?

Thanks,

-Ben

From: NYSD ECF Pool@nysd.uscourts.gov <NYSD ECF Pool@nysd.uscourts.gov>

Sent: Monday, April 11, 2022 1:16 PM

To: CourtMail@nysd.uscourts.gov

Subject: Activity in Case 1:19-cv-00972-LAP Hesse v. Godiva Chocolatier, Inc. et al Letter

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U.S. District Court

Southern District of New York

Notice of Electronic Filing

The following transaction was entered by St. John, Anna on 4/11/2022 at 4:16 PM EDT and filed on 4/11/2022

Case Name: Hesse v. Godiva Chocolatier, Inc. et al

Case Number: [1:19-cv-00972-LAP](#)

Filer: Eli Lehrer

Document Number: [124](#)

Docket Text:

LETTER addressed to Judge Loretta A. Preska from Objector Eli Lehrer dated 4/11/2022 re: Proposed Cy Pre Recipients. Document filed by Eli Lehrer..(St. John, Anna)

1:19-cv-00972-LAP Notice has been electronically mailed to:

Anna St. John anna.stjohn@hlli.org, ned.hedley@hlli.org, ted.frank@hlli.org

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1:19-cv-00972-LAP Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1008691343 [Date=4/11/2022] [FileNumber=27534868-0] [914a35c63a850245f9a439b0d6c5ca1518c7c874a5971e2458352d83fd005a289787f8b1bcf56f025a073e3aa9b2de12166e9c523dcbce4fa451c93d3a6e124c]]